

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Robert D. Partain, #237856,)	
)	C/A No. 3:09-2415-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Charles A. Reese, Simpsonville Chief)	
Police; Colleen O'Neal, Ass. Chief of)	
Police; Ernest Byrd, Sgt. Simpsonville)	
Police; James Donnelly, Inv., Simpsonville)	
Police; Matthew Culbertson, Simpsonville)	
Police; Kyle Jurek, Simpsonville Police,)	
)	
Defendants.)	
)	

At the time of filing of the within action, Plaintiff Robert D. Partain was a pretrial detainee at the Greenville County Detention Center in Greenville, South Carolina. Plaintiff, proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983 on September 14, 2009, alleging that his constitutional rights had been violated in various respects.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On November 3, 2009, Plaintiff filed a motion for summary judgment. On January 12, 2010 Defendants filed a motion for summary judgment. By order filed January 12, 2010, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Magistrate Judge advised Plaintiff of the summary judgment procedures and the possible consequences if he failed to respond adequately. Plaintiff filed a second motion for summary judgment on February 22, 2010. On July 13, 2010, the Magistrate Judge issued a Report and Recommendation in which he recommended that Defendants' motion for summary judgment

be granted and Plaintiff's motions for summary judgment be denied. No party filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants' motion for summary judgment (Entry 35) is **granted**. Plaintiff's motions for summary judgment (Entries 12, 37) are **denied**, and the case dismissed with prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina
August 13, 2010

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.